



ENTERED
11/18/2011

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE

GUILLERMO M. HERRERA,

Debtor,

$$\begin{array}{c}) \\) \\) \\) \\) \\) \end{array}$$

CASE NO. 11-31220-H3-7

MEMORANDUM OPINION

The court has held an evidentiary hearing on the "Objection to Claims of Exemption" (Docket No. 24) filed by Cedros Holdings, LLC. The following are the Findings of Fact and Conclusions of Law of the court. A separate Judgment will be entered denying the relief sought. To the extent any of the Findings of Fact are considered Conclusions of Law, they are adopted as such. To the extent any of the Conclusions of Law are considered Findings of Fact, they are adopted as such.

Findings of Fact

Guillermo M. Herrera ("Debtor") filed a voluntary petition under Chapter 7 of the Bankruptcy Code on February 7, 2011. Janet S. Casciato-Northrup is the Chapter 7 Trustee.

In the instant objection, Cedros Holdings, LLC ("Cedros") objects to Debtor's purported exemption of a home located in Kingwood, Texas, real property located in Mexico, and income from the real property located in Mexico. (Docket No. 24).

In Debtor's response, Debtor contends that the property located in Mexico was listed for notice purposes, but that Debtor has not claimed an exemption in either the Mexico property or its income. (Docket No. 29).

At the hearing on the instant objection to exemptions, Cedros presented no testimony. Cedros' sole offer of documentary evidence was the subject of a sustained hearsay objection.

Debtor's schedule C indicates that Debtor claims an exemption for the property located in Kingwood, Texas. Debtor does not claim an exemption for the property located in Mexico, or income from that property. (Docket No. 1).


Conclusions of Law

Bankruptcy Rule 4003 governs an objection to a claim of exemptions. Rule 4003(c) provides in pertinent part: "In any hearing under this rule, the objecting party has the burden of proving that the exemptions are not properly claimed." Rule 4003(c), Fed. R. Bankr. P.

In the instant case, Cedros presented no admissible evidence supporting its contention that Debtor's exemptions are not validly claimed. The court concludes that Cedros has failed to meet its burden of proof. The court concludes that the objection to exemptions should be denied.

Based on the foregoing, a separate Judgment will be entered denying the relief requested in the "Objection to Claims of Exemption" (Docket No. 24) filed by Cedros Holdings, LLC.

Signed at Houston, Texas on November 18, 2011.


LETITIA Z. PAUL
UNITED STATES BANKRUPTCY JUDGE